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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

SATO et al

Atty. Ref.: 423-18

Serial No. 08/077,193

Group: 1206

Filed: 16 June 1993

Examiner: Siegel

For: ANTIMICROBIAL AGENT

June 21, 1994

Honorable Commissioner of
Patents and Trademark
Washington, DC 20231

DECLARATION UNDER 37 CFR 1.132

I, MASARU SATO, a citizen of Japan, hereby declares as follows:

1. That I am a co-inventor of the above-identified patent application, that I am familiar with the contents of that application, that I have read the examiner's letter of April 21, 1994, and that I am familiar with published European patent applications 0,268,956 and 0,268,956, both to Souda and Eisai Co., Ltd., and I am also familiar with U.S. Patent 5,013,743 to Iwahi et al and Takeda Chemical Industries, Ltd.
2. That I am a researcher employed by Eisai Co., Ltd., the assignee of the subject application.
3. That I am familiar with European patent application EPO 585,722 A1, the European counterpart of the subject application, of which I am a co-inventor,

assigned to Eisai Co., Ltd., and in particular with the data presented in Table 2 as the studies underlying this data were prepared by me or under my direction and control. In this table, Compounds 1 and 2 correspond to the compounds of formula I and formula II of the subject application, respectively, and compounds 9 and 11 are the same compounds as compounds 13 and 14 reported in Table 1 (column 3) of U.S. Patent 5,013,743. From the data presented in Table 2 of EPO 585,722 A1 and based upon my own experience and observations, *C.pylori* compounds 1 and 2 exhibit a *C.pylori*-eradicating activity approximately 10 fold greater than compounds 9 and 11 as representative of U.S. Patent 5,013,743, and that the degree of *C.pylori* eradication by the two compounds of this application approaches that of antibiotics.

4. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 1994 July 13 Masaru Sato
Masaru Sato